

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rita Patrick,

Plaintiff,

- against -

Local 51, American Postal Workers Union, AFL-
CIO, and Shanequa Johnson-Duggins, Individually
and as President of Local 51,

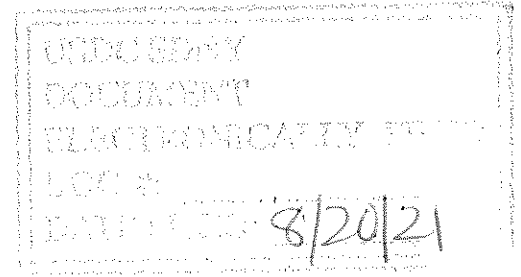
Defendants.

PAUL E. DAVISON, U.S.M.J.:

Plaintiff Rita Patrick seeks an order from this Court compelling the United States Postal Service ("USPS") to respond to Plaintiff's subpoena dated August 11, 2021, attached hereto, and to provide a "signed Certificate of Authenticity regarding these documents." [Dkt. 99-101.] Plaintiff seeks, among other things, records concerning USPS employees and grievances maintained by the USPS. In response, the USPS declined to respond to the subpoena absent written approval from the relevant employees or an order from this Court.

The Privacy Act of 1974 prohibits federal agencies from disclosing "any record which is contained in a system of records by any means of communication to any person...except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains...." 5 U.S.C. § 552a(b). As an exception, an agency may disclose such records "pursuant to an order of a court of competent jurisdiction." 5 U.S.C. § 552a(b)(11).

In addition, federal agencies can be compelled to produce information in response to a subpoena, but "federal agencies have promulgated regulations to limit their employees' authority to share information with outside parties." *Carbone v. Martin*, Case No. 18 Civ. 3509 (AKT),



19 Civ. 10715 (NSR)(PED)

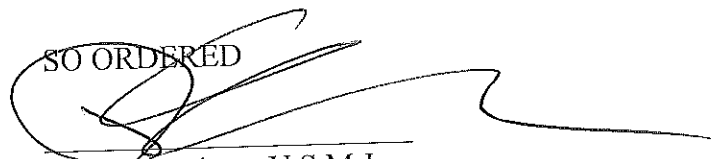
ORDER

2021 WL 1224102, at *1 (E.D.N.Y. Mar. 31, 2021) (internal citations omitted). The Federal Housekeeping Statute authorizes federal agencies to adopt regulations, known as *Touhy* regulations, that govern “the conduct of [their] employees]...and the custody, use, and preservation of [agency] records, papers, and property.” *Id.* (citing 5 U.S.C. § 301); *see U.S. ex rel. Touhy v. Ragen*, 340 U.S. 462, 468 (1951). A party to an adversary proceeding in which the United States is not a party and who seeks to obtain documents from a federal agency must follow the applicable *Touhy* regulations. *Carbone*, 2021 WL 1224102, at *1. The USPS has set forth its own *Touhy* regulation at 39 C.F.R. § 265.12. Moreover, the USPS’s *Touhy* regulation is expressly subject to the requirements of the Privacy Act. 39 C.F.R. § 265.12(a)(4) (“This section does not exempt a request from applicable confidentiality requirements, including the requirements of the Privacy Act, 5 U.S.C. 552a.”) Any subpoena issued to the USPS in this proceeding must, therefore, comply with the relevant *Touhy* regulations and the the Privacy Act. Accordingly, it is hereby

ORDERED that the USPS shall respond to Plaintiff’s subpoena dated August 11, 2021, attached hereto, subject to and without prejudice for any objections pursuant to the Privacy Act, the USPS’s *Touhy* regulation, and any other objections permitted under the Federal Rules of Civil Procedure.

The Clerk is respectfully directed to terminate the motion at Dkt. 99.

Dated: August 20, 2021
White Plains, New York

SO ORDERED

Paul E. Davison, U.S.M.J.

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York



Rita Patrick

Plaintiff

Local 51, APWU and Shonequa Johnson-Duggins,
Indiv and as President, Local 51

Defendant

Civil Action No. 7:19-cv-10715

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: United States Postal Service, General Counsel's Office, Attn: Summons and Complaints, 475 L'Enfant Plaza,
S.W., Rm 6100, Washington, DC 2026

(Name of person to whom this subpoena is directed)

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Please see attached addendum.

Place: Thomas & Associates c/o Irene Donna Thomas, Esq.
300 N. Atlantic Avenue
Pittsburgh, Pennsylvania 15224Date and Time: 8/31/2021 - Docs may be provided
by email

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 08/11/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiff,
Rita Patrick, who issues or requests this subpoena, are:
Irene Donna Thomas, Esq., 300 N. Atlantic Avenue, Pittsburgh, PA 15224, 917-416-3806, idt.esq@gmail.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

SUBPOENA TO PRODUCE DOCUMENTS (ADDENDUM)

United States Postal Service
1000 Westchester Avenue
White Plains, New York 10610

Patrick v. Local 51, et. al.
7:19-cv-10715 (NSR)

YOU ARE COMMANDED to produce at the time, date and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

- A list of every grievance filed by a representative of Local 51 of the American Postal Workers Union where the United States Postal Service challenged the grievance as untimely filed or untimely appealed for the period April 1, 2019 through the present, identifying the union representative who filed the grievance. Please indicate if an extension of time to file the grievance was allowed.
- Time and Attendance Collection System (TACS)(clock rings), for Shonequa Johnson-Duggins, Rarsheen Williams, Zora Dudley, Taylor Paige, Lacoya Jones, Anna Nachstein, Arlene McDuffie, Nick Ciglio for period 4/1/2019 - 4/1/2020.
- Door rings for Shonequa Johnson-Duggins, Rarsheen Williams, Zora Dudley, Taylor Paige, Lacoya Jones, Anna Nachstein, Arlene McDuffie, Nick Ciglio for period 4/1/2019 - 4/1/2020.
- Form 3972s for Shonequa Johnson-Duggins, Rarsheen Williams, Zora Dudley, Taylor Paige, Lacoya Jones, Anna Nachstein, Arlene McDuffie, Nick Ciglio for period 4/1/2019 - 4/1/2020.
- Form 1260s for Johnson-Duggins for period 4/1/2019 - 4/1/2020;
- TACS, door rings and 3972 for Kim Spence for 4/1/2019 - 11/14/2019;
- TACS, door rings and 3972 for Jessica Correa for 4/1/2019 - 11/14/2019,
- TACS and 3972 for Rashid Thomas for 10/1/2019 - 11/14/2019;
- Clock Ring Key;
- All documents indicating the number of overtime hours worked by Johnson-Duggins in the ATOL operation for the period January 1, 2019 through December 31, 2019.